

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 281 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy
of the judgement?
 4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
2 to 5 No

SMT MANJIT KAUR HARJINDERPAL SINGH

Versus

STATE OF GUJARAT

Appearance:

MR DHIRENDRA MEHTA for Petitioner
MR.AJ DESAI, APP for Respondent No. 1

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 03/04/98

ORAL JUDGEMENT

Heard learned Advocate Mr. Dhirendra Mehta for
petitioner. Rule. Learned APP Mr.A.J. Desai waives
service of rule on behalf of Respondent No.1 State.

2. The petitioner claims to be the owner of a
Empty Tanker bearing Registration No. GJ-6-U-7766. It

is contended by the petitioner that said tanker was seized on 8th March, 1998 by PSI Chhani Police Station, Baroda, for offence registered vide No. II - 51/98 under Sections 277 and 144 of the IPC. The petitioner had applied to the Court of JMFC, Baroda, for release of the said tanker. However, vide order dated 10th March, 1998, as per copy produced 'Annexure-D', the prayer was rejected and thereafter the petitioner carried the matter further to learned Additional Sessions Judge, Baroda. That learned Additional Sessions Judge, Baroda, vide order dated 26th March, 1998, rejected the Criminal Revision Application No.68 of 1998.

3. Learned Advocate Mr. Mehta has submitted on behalf of the petitioner that petitioner is in the business of waste control and has been taking contract from government, semi government as well as private sector industries to collect the waste water and discharge at appropriate place. That according to petitioner, the waste water collected and discharged by petitioner through said tanker did not contain any polluted element. However, Police authorities on presumption has seized and detained the said Tanker which has adversely affected the business of the petitioner and hence the present petition.

4. Learned APP Mr. A.J. Desai, has contested the petition contending that it was submitted before learned JMFC as well as learned Additional Sessions Judge that on behalf of Pollution Control Board, State of Gujarat, samples from the waste water carried by the present petitioner were taken and on examination of analysis report, it was found that the waste water carried and discharged by petitioner contained polluted element and thereby the tanker was detained. The petitioner cannot be permitted to continue such activity.

5. Learned Advocate for petitioner on instructions from his client has stated at Bar that petitioner is ready and willing to give undertaking that without the permission of Pollution Control Board, the petitioner shall not use the said tanker for collection and discharge of waste water and on that condition the tanker may be released and the petitioner be permitted to use the said tanker for collection and discharge of waste water from other undertakings and can continue his business.

6. On the above stated discussion, the Police Inspector, Channi Police Station, Baroda, is directed to release the Tanker bearing Registration No.GJ-6-U-7766 of

the petitioner on condition that the petitioner shall file a bond of Rs. 5,000/- (Rupees five thousand only) and an undertaking before the police authority that the petitioner shall not use the said Tanker for collection and discharge of waste water without obtaining permission from Pollution Control Board, State of Gujarat. That in the event of any breach, on inspection of police authorities, the said tanker shall be liable to seizure and detention again.

7. The petitioner shall apply to the concerned authorities of the Pollution Control Board, Gujarat State for obtaining permission and shall follow the necessary procedure as prescribed by GPCB. It is suggested that Gujarat Pollution Control Board after carrying out test of the waste water for which petitioner has made contract to collect and discharge, may grant permission as permissible under the law within a period of two weeks from the date of receipt of application. The petitioner shall be at liberty, in case of any difficulty, to approach this court for clarification of this order. Rule is made absolute. No order as to costs. Direct service is permitted.

p.n.nair